THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16940 of 2007

Dated: 13.08.2007

Between:

Mohd. Yousuffuddin.

..... PETITIONER

AND

The Joint Collector, Ranga Reddy District, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16940 of 2007

ORDER:

The petitioner filed an appeal under Section 24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity) before first respondent. The appeal was filed against the order of the Revenue Divisional Officer (RDO) dated 21.01.1980 in favour of the predecessor of respondents 3 to 5. First respondent dismissed the appeal on 23.12.2005 *ex parte* observing that the counsel for the petitioner has not chosen to argue the matter. The petitioner then filed an application purportedly under Section 151 of the Code of Civil Procedure, 1908, praying first respondent to set aside said order dismissing the appeal for default. Said application was filed with delay of 339 days. By the impugned order dated

28.04.2007, first respondent dismissed said application. In this writ petition, the learned counsel for the petitioner submits that the impugned order of first respondent is unsustainable for want of reasons. He also submits that the petitioner has given sufficient reasons in the affidavit accompanying the application to set aside the *ex parte* dismissal order and the same were not considered.

This Court has perused the various documents to which this Court has been taken through. Admittedly, RDO passed order granting ORC in favour of Seth Balram - the predecessor of respondents 3 to 5, on 21.01.1980. Curiously the appeal is filed in 1996 after lapse of sixteen years. Secondly as observed by first respondent in the order dated 23.12.2005 the counsel for the petitioner did not advance any arguments. Therefore, the matter was dismissed. Even thereafter the application to set aside the order dismissing the appeal for default was not filed within time. There was delay of 339 days. To justify the delay, in the affidavit the petitioner pleaded that his counsel - Sri Rajeswara Rao did not attend the enquiry before first respondent and has kept the petitioner in dark. After coming to know of the dismissal, the petitioner applied for certified copy and filed the application seeking to set aside the *ex parte* dismissal order. These averments remained unsubstantiated even till today. If his counsel - Sri Rajeswara Rao was negligent and did not attend the enquiry, nothing prevented the petitioner to produce evidence to that effect. No effort was made except filing an affidavit. Therefore, this Court does not find any infirmity or illegality in the impugned order.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

13th August, 2007
ghn